

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOSEPH BORGEN,

Plaintiff

v.

FAISAL ELEZZI;

WASEEM AWAWDEH;

MAHMOUD MUSA;

MOHAMMED OTHMAN;

“K.A.”, a Minor,

Defendants.

JURY TRIAL DEMANDED

CASE NO. 1:22-cv-04105-LGS

**DECLARATION OF DAVID I. SCHOEN IN SUPPORT OF
APPLICATION FOR ENTRY OF DEFAULT AGAINST DEFENDANT
WASEEM AWAWDEH, PURSUANT TO RULE 55(a), FEDERAL RULES
OF CIVIL PROCEDURE AND LOCAL CIVIL RULE 55.1**

Pursuant to 28 U.S.C. Sec. 1746, David I. Schoen, hereby declares the following:

1. I am counsel for the Plaintiff, Joseph Borgen, in the above-captioned case.
2. After I filed the Complaint in this case, I retained the services of a duly licensed process server, based on New York.
3. I provided the process server with a copy of the Complaint and summons for Defendant Waseem Awawdeh, along with the other documents I was required to serve on each defendant per the Court’s Order [ECF# 5]. (Collectively “the papers”).
4. On July 28, 2022, accompanied by a New York based attorney to observe, the

process server waited for Defendant Awawdeh at a court appearance he had at 100 Centre Street in Manhattan, on the criminal hate crime charges brought against him. The process server and the attorney observer approached Awawdeh and his lawyer outside the courtroom in the hallway for the purpose of serving the complaint, summons, and other designated papers on Awawdeh. As the process server approached Awawdeh and his lawyer and explained his purpose, the lawyer stepped in between Awawdeh and the process server and told Awawdeh not to take the papers. The process server advised Awawdeh that he was being served and dropped the papers at Awawdeh's feet.

5. Awawdeh and his lawyer refused to take the papers and left them on the floor of the hallway in the courthouse where Awawdeh had been served. The foregoing is based on my phone conversation with the process server and the attorney observer, contemporaneously with the event, phone calls with them afterward, and the Proof of Service the process server provided to me and that I filed [ECF# 15].

6. I followed up by phone and email with the process server and the attorney observer and they confirmed this to me.

7. I subsequently sent an email to the attorney who represents Awawdeh in the related criminal hate crime case and offered to provide Awawdeh, through the attorney, with a full set of what had been served on him, since he had left them in the courthouse hallway. The attorney did not respond.

8. Based upon my investigation in this case, I declare that the Defendant Waseem Awawdeh is not an infant, in the military, or an incompetent person.
9. Defendant Waseem Awawdeh has failed to plead or otherwise defend the action.
10. The pleading to which no response was made (the Complaint) has been properly served.
11. I am providing this Declaration in support of Mr. Borgen's application for the entry of default against Defendant Awawdeh. I believe all requirements for the entry of a default have been met in this matter and respectfully request that a default be entered.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

/s/ David I. Schoen
David I. Schoen (DS 0860)
Counsel for Plaintiff Joseph Borgen